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HOUSE BILL 57

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Daniel R. Foley

AN ACT

RELATING TO CIVIL LAW; PROVIDING THAT A PRIMA FACIE TORT SHALL NOT BE RECOGNIZED AS A CAUSE OF ACTION IN A CIVIL LAWSUIT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. PRIMA FACIE TORT--LIMITATION ON ACTION. --

A. A prima facie tort shall not be recognized as a cause of action in a civil lawsuit.

B. The provisions of this section do not limit a plaintiff from pursuing another action in tort.

C. As used in this section, "prima facie tort" means a claim by a plaintiff for damages on the basis that the defendant acted lawfully, but intended to cause the plaintiff harm and succeeded in doing so. The elements of a prima facie tort are as follows:

- (1) the defendant intentionally acted or

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failed to act;

(2) the defendant intended that his act or failure to act would cause harm to the plaintiff or the defendant knew with certainty that his act or failure to act would cause harm to the plaintiff;

(3) the defendant's act or failure to act was the proximate cause of the plaintiff's harm; and

(4) the defendant's conduct was not justifiable under the circumstances.

Section 2. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 2003.